

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4635 of 1995

to

FIRST APPEAL No 4647 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

DINESHBHAI BHAILBHAI

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

MR NITIN AMIN for Appellant

MR PG DESAI GP for Respondent No. 1, 2

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 11/03/98

ORAL JUDGEMENT

Per : Y.B. Bhatt, J.

1. Heard the learned counsel for the respective parties at the admission stage. Appeals admitted. Mr.

P.G.Desai, learned Government Pleader waives service for the respondents.

2. At joint request of learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. This group of appeals arises under section 54 of the Land Acquisition Act read with section 96 CPC, wherein the appellants - original claimants challenge the common judgment and awards passed by the Reference Court under section 18 of the said Act. It may be noted here that the Reference Court has rejected the entire claim of the claimants made in the Reference Applications and has merely upheld the market value as found by the LAO in his award under section 11.

4. Although we have heard the counsel for the respective parties both on facts and on law, ultimately the learned counsel agree that the facts of the present case would be completely covered by an earlier decision of this Court in F.A. Nos. 4648/95 to 4657/95 with F.A. Nos. 5221/95 to 5228/95, dated 2nd September, 1996 decided by one of us on the present Bench (Coram : Y.B. Bhatt, J.).

4.1 We may only narrate in brief why the said decision would be applicable on all aspects of the matter including the merits and the determination of the market value of the lands under acquisition.

4.2 The relevant notifications under section 4 of the said Act are dated 27th July, 1989 in the instant group of appeals whereas in the decision referred to hereinabove, the same was dated 13th June, 1989.

4.3. The market value determined by the LAO in the award under section 11 in the instant group of matters as also in the earlier decision was Rs. 1.80 ps. per sq. mt.

4.4. Both the lands concerned in the present group of appeals as also the lands covered by the earlier decision are from the same village, are acquired for the same purpose and for the same project namely; the Miyagam Canal forming part of the Narmada Project.

5. In view of the facts stated hereinabove, learned counsel for the respective parties agree that the market value of the acquired lands as determined under the earlier decision referred to, would also apply to the instant group of appeals. Thus, we determine the market

value of the acquired lands concerned in the present group of appeals at Rs. 6/- per sq. mt. Consequently, the impugned awards shall stand substituted by the decree passed herein. There will also be a consequential increase in the amounts of solatium and interest. In this context, it is clarified that the additional amount of compensation awardable on account of determination of the market value of Rs. 6/- per sq. mt. would also attract solatium at the rate of 30%, and interest at the rate of 9% in the first year from the date of taking possession, and at the rate of 15% thereafter until the payment or deposit in the Court. Furthermore, the claimants would also be entitled to additional amount under section 23 (1) -A of the said Act calculated at the rate of 12% per annum on such market value from the date of publication of the notification under section 4(1), upto the date of the award under section 11 or upto the date of taking possession of the lands whichever is earlier. These appeals are therefore partly allowed with no order as to costs. Decree accordingly.

6. The respondents are directed to deposit the decretal amount before the Reference Court in separate Land Reference Cases, within three months from today.

Amp/-